

§ 11.106

with its constitution and by-laws or other governing documents.

[73 FR 39859, July 11, 2008, as amended at 85 FR 646, Jan. 7, 2020]

§ 11.106 Who is an Indian for purposes of this part?

For the purposes of the enforcement of the regulations in this part, an Indian is defined as a person who is a member of an Indian tribe which is recognized by the Federal Government as eligible for services from the BIA, and any other individual who is an “Indian” for the purposes of 18 U.S.C. 1152–1153.

§ 11.108 How are tribal ordinances affected by this part?

The governing body of each tribe occupying the Indian country over which a Court of Indian Offenses has jurisdiction may enact ordinances which, when approved by the Assistant Secretary—Indian Affairs or his or her designee:

(a) Are enforceable in the Court of Indian Offenses having jurisdiction over the Indian country occupied by that tribe; and

(b) Supersede any conflicting regulation in this part.

§ 11.110 How are tribal customs affected by this part?

Each Court of Indian Offenses shall apply the customs of the tribe occupying the Indian country over which it has jurisdiction to the extent that they are consistent with the regulations of this part.

§ 11.112 [Reserved]

§ 11.114 What is the criminal jurisdiction of the Court of Indian Offenses?

(a) Except as otherwise provided in this title, each Court of Indian Offenses has jurisdiction over any action by an Indian (hereafter referred to as person) that is made a criminal offense under this part and that occurred within the Indian country subject to the court’s jurisdiction.

(b) No person may be prosecuted, tried or punished for any offense unless the complaint is filed within 5 years after the offense is committed.

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§ 11.116 What is the civil jurisdiction of a Court of Indian Offenses?

(a) Except as otherwise provided in this title, each Court of Indian Offenses has jurisdiction over any civil action arising within the territorial jurisdiction of the court in which:

(1) The defendant is an Indian; or

(2) Other claims, provided at least one party is an Indian.

(b) Any civil action commenced in a Court of Indian Offenses is barred unless the complaint is filed within 3 years after the right of action first accrues.

§ 11.118 What are the jurisdictional limitations of the Court of Indian Offenses?

(a) A Court of Indian Offenses may exercise over a Federal or State official only the same jurisdiction that it could exercise if it were a tribal court. The jurisdiction of Courts of Indian Offenses does not extend to Federal or State employees acting within the scope of their employment.

(b) A Court of Indian Offenses may not adjudicate an election dispute, take jurisdiction over a suit against a tribe, or adjudicate any internal tribal government dispute, unless the relevant tribal governing body passes a resolution, ordinance, or referendum granting the court jurisdiction.

(c) In deciding who is a tribal official, BIA will give deference to a decision of the Court of Indian Offenses, acting as a tribal forum by resolution or ordinance of a tribal governing body under paragraph (b) of this section.

(d) A tribe may not be sued in a Court of Indian Offenses unless its tribal governing body explicitly waives its tribal immunity by tribal resolution or ordinance.

Subpart B—Courts of Indian Offenses; Personnel; Administration

§ 11.200 What is the composition of the Court of Indian Offenses?

(a) Each court shall be composed of a trial division and an appellate division.

(b) A chief magistrate will be appointed for each court who will, in addition to other judicial duties, be responsible for the administration of the